

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JANEAN J. GOODWIN,

Plaintiff,

VS.

MICHAEL J. ASTRUE,
Commissioner of Social Security
Administration,

Defendant.

8:07CV199

MEMORANDUM AND ORDER

An appendix was included with the reply brief filed by Plaintiff in this action. Plaintiff asserts that 23 pages of material are inexplicably missing from the transcript filed in this court by the Commissioner. (Filing 22 at CM/ECF page 1.) The appendix includes 23 pages of material, including new medical evidence, which Plaintiff asserts was submitted to the Appeals Council (Filing 22 at CM/ECF pages 8-32), as well as what purports to be a confirmation that this material was faxed to the Appeals Council on August 8, 2006. (Filing 22 at CM/ECF page 33.) The March 20, 2007 denial of review by the Appeals Council generally references “the reasons you disagree with the Administrative Law Judge’s decision” but does not specifically note that it considered the additional medical evidence included in the appendix to Plaintiff’s reply brief. (T. 365.) It is unclear whether Defendant agrees that the material found in Filing 22 at CM/ECF pages 8-32 should have been included in the transcript filed in this court as the record of the proceedings before the Commissioner, and unclear whether the parties agree that the Appeals Council considered the new medical evidence contained in Filing 22. I will direct the parties to clarify this.

Accordingly,

IT IS ORDERED that **on or before April 7, 2008**, Plaintiff and Defendant shall **each** electronically file either:

1. The following stipulation: *“The material found in Filing 22 at CM/ECF pages 8-32 should be considered as part of the record of the proceedings before the Commissioner and this material was considered by the Commissioner when he denied review on March 20, 2007.”*

or

2. A brief explaining why the material found in Filing 22 at CM/ECF pages 8-32 should not be considered by this court as part of the record of the proceedings before the Commissioner in this matter.

March 18, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge